IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2544 OF 2006

M/s.Lakadawala Developers P.L.& Anr. ....Petitioners
V/s.
Deputy Collector and others ....Respondents

Mr.Rajiv Narula i/b M/s.Jhangiani, Narula & Associates for the Petitioners.

Mr.Milind More, AGP for Respondent Nos.1 and 2.

Mr.A.J. Bhor for Respondent No.3.

Mr.S.G. Surana for Respondent No.4.

Mr.G.D. Utangale for Respondent No.5.

**CORAM : F.I. REBELLO &**
**R.M. SAVANT, JJ.**
**DATED : 23RD APRIL, 2007.**

**P.C.** :

1. Rule. Heard forthwith.

2. The Petitioners who were carrying out SRA scheme had approached this Court earlier by Writ Petition No.524 of 2005. By an order dated 11.4.2005, a Learned Bench of this Court had remanded the matter to the Appropriate Officer, SRA to consider the contention of various parties. By communication dated 14.6.2006, the said representation has been rejected. The reason given by the Competent Authority is that

the case for inclusion of 336.06 sq.mtrs. in occupation of Respondent No.4 of which 112.52 sq.mtrs. under Vacant Land Tenure (VLT) and 223.54 sq.mtrs. under unauthorized occupation of Respondent No.4 was not required for inclusion to rehabilitate all the 303 eligible slum dwellers along with 14 members of PAPs (Project Affected Persons).

3. The Petitioners have raised various objections including the objection that they were not given a hearing. In view of the order to be passed, we do not propose to go into that controversy. Regulation 1.12 to A-4 reads as under :-

> "If any land a part of any land on slum is located, is under the vacant land tenure, such tenure/lease created by the BMC or the Municipal Commissioner shall stand automatically terminated since the SRA scheme, which is a public purpose, on such lands prepare and submit for approval to Slum Rehabilitation Authority. Any area or issues to be included by the BMC shall not liable to any issue certificate or NOC relating to SRA."

4. A perusal of the said Regulation did not therefore make it clear that when on land a SRA scheme is prepared and approved by SRA, then by operation of law vacant land tenure shall stand automatically terminated. The Authority therefore has to enquire whether the scheme prepared and submitted has been approved in respect of the entire land which includes the land under the vacant land tenure and the encroached portion. If that land forms part of the scheme, which was submitted, then by operation of law, the vacant land tenure shall stand automatically terminated, when on such land the SRA scheme is prepared and submitted for approval to the Slum Rehabilitation Authority. This issue, which ought to have been considered by the Competent Authority appears not to have been considered.

5. In that view of the matter, in our view the ends of justice would be met if the impugned order dated 14.6.2006 is set-aside and the matter is remanded back to the Chief Officer, SRA for considering the matter de-novo and after hearing all the parties, and to pass a fresh order at any rate not later than 16 weeks from today. The parties to give their reply before that date.

. The parties to appear before the Chief Officer, SRA on 19.6.2007 at 11.00 a.m.

6. Rule is made absolute accordingly, with no order as to costs.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)